

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION

MDL No. 2724
Case No. 2:16-MD-02724

THIS DOCUMENT RELATES TO:

Hon. Cynthia M. Rufe

ALL ACTIONS

**INTERVENOR UNITED STATES' UNOPPOSED
MOTION TO EXTEND STAY OF DISCOVERY**

Intervenor United States of America (the “United States”) respectfully submits this unopposed motion to extend the current stay of discovery for a brief period of time to allow for the orderly consideration of several anticipated filings, including a motion to further extend the stay from Defendants, cross-motions to allow discovery from Plaintiffs and the State AGs,¹ and a filing explaining the position of the United States.

On May 1, 2017, the United States filed a motion to stay discovery until 30 days after consolidated amended complaints were filed. ECF No. 279. The United States explained that the proposed stay would “facilitate . . . coordination” of the MDL and the United States’ ongoing criminal investigation into collusion in the generic pharmaceuticals industry and would “giv[e] the parties (including the United States) an opportunity to formulate a discovery plan that would continue to protect the investigation going forward.” *Id.* at 4-5. On May 22, 2017, the Court entered Pretrial Order No. 23, which directed Plaintiffs to file amended complaints by August

¹ This motion refers to the Direct Purchaser Plaintiffs, End-Payer Plaintiffs, and Indirect Reseller Plaintiffs collectively as “Plaintiffs” and to the collection of states whose actions have recently been transferred into the MDL as the “State AGs.” *See* ECF Nos. 417, 425.

15, 2017, stayed all discovery until September 15, 2017, and recognized that a further stay would be possible. ECF No. 347.

On June 20, 2017, Plaintiffs and Defendants jointly proposed that Defendants would file any further motion to stay discovery by September 15, 2017 and suggested a briefing schedule and page limitations for addressing issues raised by the motion. ECF No. 363, at 2. Based on discussions with Plaintiffs and Defendants, the United States anticipates that Defendants will file a motion to further stay discovery by September 15, 2017 and that Plaintiffs and the State AGs will file cross-motions to allow discovery by October 13, 2017.

The United States has begun to meet and confer with Plaintiffs about whether some categories of discovery sought by Plaintiffs could proceed without unduly interfering with the United States' ongoing criminal investigation. These discussions have been affected by the Judicial Panel on Multidistrict Litigation's recent orders transferring to this Court two actions brought by the State AGs, ECF Nos. 417, 425, and the United States now plans to meet and confer with the State AGs as well as Plaintiffs. If the United States is able to reach an agreement with Plaintiffs and the State AGs about which categories of discovery should proceed and which categories should remain stayed, then the United States anticipates that the Court would be informed of that agreement by no later than October 13, 2017. On the other hand, if the United States is not able to reach complete agreement with Plaintiffs and/or the State AGs, then the United States anticipates that, by no later than October 13, 2017, it would make a submission identifying any areas of agreement and highlighting those areas where disagreements remain.

The Court has scheduled a status conference for September 12, 2017, three days before the discovery stay expires. ECF No. 418. If the stay is not extended very soon after the status conference, then Plaintiffs, the State AGs, and Defendants could engage in discovery that

interferes with the United States' ongoing criminal investigation. But extending the stay now—so that it remains in effect until resolution of Defendants' motion to further stay discovery and any cross-motions—would protect the integrity of the criminal investigation, allow additional time for the parties to attempt to reach agreements on as many issues as possible, and provide the Court sufficient opportunity to consider fully the issues raised by all of the parties (including the United States) through the orderly briefing schedule that Plaintiffs and Defendants previously proposed.

The United States has conferred with Plaintiffs, Defendants, and the State AGs, and their representatives have authorized the United States to represent to the Court that they do not oppose this motion.

For the foregoing reasons, the United States respectfully requests that the Court enter the accompanying proposed Order, which would establish a briefing schedule for the motions described above and extend the stay of discovery until resolution of those motions.

Dated: August 25, 2017
Washington, DC

Respectfully submitted,

/s/ Andrew J. Ewalt
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CERTIFICATE OF SERVICE

I, Jay D. Owen, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: August 25, 2017

/s/ Jay D. Owen
Jay D. Owen